

Nevada County Department of Agriculture  
Pesticide Use Enforcement Workplan

Fiscal Year 2006 – 2007

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## **A. Restricted Materials Permitting**

### **Permit Evaluation**

- In Nevada County the number of restricted material permits issued on a yearly basis varies between 25 and 50
- Most restricted use permits issued are for aluminum phosphide and phenoxy herbicides
- Permits for restricted materials are issued to the operator or their designated representative of the property to be treated
- Permits are approved only if the permittee has a valid private applicators certificate, or qualified applicators certification
- The county administers the private applicators certification exam
- Private applicators certification exam takes approximately one hour
- Permit issuance takes approximately one hour
- Permits are signed by the permittee or documented representative (California Code of Regulations Title 3 section 6420)
- Permits are site and time specific
- Permits are issued for a period of one year or less
- Permits are recorded on an approved form (PR ENF – 125)
- Pest Control Advisors and growers are asked if they have considered feasible, reasonable, and effective mitigation measures when using pesticides that require permits
- Growers are counseled on alternative non-restricted chemicals and other available methods of pest control
- Permit applications are documented on an approved form with all applicable required information (3CCR section 6428) and are completed by licensed staff
- Non Ag permit applications are documented on an approved form with all applicable required information (3CCR section 6430) completed by licensed staff
- Permits are evaluated at the time of issuance and when the notice of intent is received to determine if a substantial adverse environment impact may result
- A permit is denied or conditioned recognizing and utilizing appropriate mitigation measures
- Appropriate mitigation considered includes knowledge of local conditions, pest management guidelines, restricted material, hazard chart, pesticide information series, locally developed permit conditions, Food and Agriculture Regulations (including 3CCR sections 6443 and 6450 through 6489).
- If a permit is denied the applicant will be given due process in the form of a notice and an opportunity to be heard. Findings to deny the permit will be consistent with the requirements of FAC section 14008.
- A map of the area to be treated and the surrounding area will be created using ArcMap GIS software to help identify environmental concerns. One mile buffer zones have

been created around vineyards in ArcMap to assure that there is no 2,4-D use between March 1 and October 31

- 24 hour NOIs are required
- Approximately 40 NOIs are received annually

### Strengths

- Good staff knowledge of farm locations and local conditions helps to make informed decisions when evaluating and issuing permits
- Most permits are yearly renewals and not new sites
- Narrow range of restricted chemicals used

### Weaknesses

- Some permits need to have pesticides removed from them if they are no longer being used
- Referencing use reports back to NOIs to make sure they are being submitted
- Maintenance of permit files to ensure all information and documentation is up to date
- All files need to include PAC applications for all private applicators using restricted materials
- Some files still include hand drawn maps, which need to be updated to GIS maps

### Goals

The goal of the County of Nevada Department of Agriculture is to continue to improve the restricted materials permit application process to insure the safe use of the pesticide and to protect our residents and the environment. We will review notices of intent (NOI) as identified in the above summary.

### Deliverables

- Map treatment areas utilizing ArcMap in timely manner.
- Identify sensitive areas (i.e. schools, vineyards) on maps
- Evaluate permits for adverse environmental impacts.
- Approve, deny, and condition permit as necessary.
- Review Private Applicator Certificate applications for completeness and accuracy.
- Review Private Applicator Certification expiration date before issuing permit.
- Provide guidance to those that fail the PAC test and reschedule testing at a later date.
- Provide study material for PAC test
- Review permits for completeness and accuracy.
- Review permit evaluation process with licensed staff and with our DPR liaison

### Measures of Success

The best measure is the yearly evaluation of our permitting process for improvements and deficiencies. This will include the review of permits, non-compliances and PRAMR data. We will discuss with licensed staff and DPR Enforcement Branch Liaison (EBL) our

permit evaluation process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or area of concern.

### **Site-Monitoring Plan Development**

- The majority of NIOs are for Phenoxy herbicides applied to forest lands, and aluminum phosphide for rodent control
- Vikane is used for structural pest control in some instances, typically less than 10 fumigations per year occur in Nevada county
- Licensed staff review all NOIs
- Licensed staff will monitor permits as required in 3CCR section 6436.
- A minimum of five percent of the sites identified in permits or NOIs will be monitored.
- Monitoring will include evaluation of the basis for the intended application including written recommendation, if any, toxicity of material (category I are first priority), environmental concerns (endangered species, buffer zone areas, school areas, ag-urban interface areas, problem areas identified from previous years, section 18 registrations, etc).
- NOI is required to be submitted for non-agricultural permits prior to the first application after permit renewal

### **Strengths**

- Very few types of restricted materials used
- Staff has good knowledge of local environmental conditions

### **Weaknesses**

- Timing for pre site inspections sometimes conflicts with other job duties in an office with limited staff

### **Goal**

Our goal is to implement measures that ensure site monitoring considerate of pesticide hazards such as, but not limited to, agriculture/urban interfaces, local farming conditions and permittee and advisor compliance histories. A special emphasis will be placed on working with growers that are farming at the ag/urban interface and other sensitive sites.

### **Deliverables**

- 5% of NOIs at Agriculture/Urban areas will be monitored to ensure safety to residences, schools and businesses
- All NOIs will be reviewed by licensed staff to ensure that:
  - 1.a valid Restricted Materials Permit (RMP) was issued for the material to be applied to the intended site.
  - 2.Crop or application site is allowed by label/Section 18/permit conditions
  - 3.Method of application is allowed by pesticide label & permit conditions
  - 4.Dilution/volume per acre is appropriate.
  - 5.Material is appropriate for pest to be controlled
  - 6.Surrounding areas will not be adversely impacted by application

- 5% of the NOIs received will have pre-site inspections conducted for 06/07 fiscal year. This will help identify sensitive areas or changes in the surrounding environment to application sites prior to the pesticide application being conducted
- Record and evaluate all NOIs
- All NOIs that are denied shall be recorded on a NOI denial form and counted for the PRAMR and filed

#### Measures of Success

The best measure of success is the continuous evaluation of our site-monitoring plan for improvements and deficiencies. Assessing the number of complaints received from agriculture/urban interfaces will help evaluate needs to address pesticide issues. Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in this program. This will include “new” pesticides to focus on, environmental factors that need addressing, new priority programs put into place by this department or DPR or an outside agency. This department will document our assessment findings and any changes to our site-monitoring plan.

## **B. Compliance Monitoring**

#### Comprehensive Inspection Plan

- Two trained and licensed staff, Ag Biologist I, and Ag Biologist III will perform inspection.
- Nevada County’s inspection program evaluation reveals that 65% of our inspections are scheduled.
- Scheduled inspections primarily include grower or headquarter safety and records inspections, and pre-application site inspections.
- Targeted inspections comprise 15% of our inspection workload, and are prioritized by compliance history, and employers who have employees handling pesticides.
- Chemical hazard, environmental concerns and applicator compliance history prioritize these inspection activities.
- 20% of our inspection activities are more random and focus on general applications.

#### Strengths

- Due to a small agricultural community in our county, we know most growers and have a good working relationship with most of them
- We are able to rotate through all growers, and inspect on a 2-3 year cycle
- Any growers with non-compliances are inspected more frequently
- Growers with employees are also a priority for inspection
- Our pesticide dealers are inspected on a yearly basis
- We have historically had a low level of pesticide related illnesses in our county

#### Weaknesses

- Training of a new employee will take some time away from inspections
- Due to a small staff and a variety of duties to be performed, we are not always able to optimize our timing of inspections

### Goal

Increase compliance with pesticide laws and regulations involving pesticide use within Nevada County. A commitment to implement a comprehensive compliance inspection plan, based on the findings of the evaluation identified above, to ensure pesticide users are adequately monitored throughout the county. We will focus on newly registered businesses to ensure that they have an understanding of what is required to be compliant. We will also focus on areas of non-compliance identified during Headquarters Safety Inspections, Application Inspections or other inspections.

### Deliverables

- Based on our historical inspection data we have set our 2006/2007 inspection goals as follows:
 

◦ Application Inspections -	6
◦ Field Worker Inspections -	1
◦ Mix Load Inspections -	3
◦ Structural Fumigation Inspections -	1
◦ Headquarter/Employee Safety Inspections -	8
◦ Permit Monitoring Pre-site Inspections -	5%
◦ Pest Control Business Record Inspections -	4
◦ Pest Control Dealer Record Inspections -	2
◦ Ag Pest Control Advisor Record Inspections -	2
- Continue in our efforts from past years to focus on investigating and bringing unlicensed maintenance gardeners into compliance
- Work with new agricultural and pest control businesses coming into our county on compliance before problems arise
- All non-compliances will be tracked and followed up on as required
- All violations will be dealt with using the new ERP guidelines
- Permit holders with a recorded non-compliance will be monitored more frequently
- Copies of all inspections will be kept in permit holder files to address non-compliance history and increased monitoring needs
- Work with AIRS

### Measures of Success

The goal of a comprehensive inspection plan is to improve the program and increase compliance. A decrease in non-compliances can be an effective indicator of success if all other things are equal. Striving to increase the effectiveness of our compliance activities by further refining focused and targeted inspection schemes may in the short term, increase the number of non-compliances identified. A decrease in the number of non-compliances for the 2005/2006 fiscal year is a good measure of the effectiveness of our implemented program changes. Our current plan will allow for flexibility for changes that may occur with pesticide use activities or with changes in priorities within the county or at

the state level. Periodic review by licensed staff and by our DPR EBL will help in analyzing our measure of success in the program.

## **Investigation Response and Reporting Improvement**

### Investigation Response and Reporting

The Nevada County Department of Agriculture received 3 episode notifications between August 2005 and September 2006. All 3 investigations conducted were completed within 120 days.

- Joe Damiano, Ag Bio III, conducts investigations relating to pesticide illness and pesticide complaints. Final approval comes from the Commissioner
- Investigations that indicate non-compliance are discussed for further compliance or enforcement action.
- The agricultural biologist makes the recommendation on enforcement actions. Actions are written by Joe Damiano and signed by the Commissioner.
- A log is maintained by Joe Damiano giving the status of all investigations

### Strengths

- Experienced investigator with good writing skills
- Tracking system in place to monitor investigation status

### Weaknesses

- More experience over the years will generate better reports

### Goals

A commitment to implement an investigation response plan, based on the findings of the evaluation identified above to ensure all investigations are completed in a timely manner with accurate and supportive information.

### Deliverables

- Timely initiation and completion of all priority and non-priority investigations
- Start priority episode investigations within 3 working days of receiving
- Request assistance from DPR staff liaison in priority investigations
- Complete all investigative reports within 120 days
- Development and use of investigation plan
  - Use elements of violation analysis in Hearings Sourcebook
- Make sure the plan includes at a minimum the following:
  - List the suspected violations by element
  - List persons who need to be interviewed
  - List type of samples to collect
  - List other evidence necessary: RM permit, NOI, PUR, training
  - Records, diagrams, photos
  - List probable inspection activities
  - List possible violations, if necessary or applicable

- Summarize the findings of fact to date, and planned activities
  - List of persons who need to be provided with periodic updates
  - Address agreements with other agencies and legal mandates
- Thorough report preparation
  - Follow episode report form carefully
  - Attach supporting documentation and evidence
  - Tracking system for assuring episode notifications and investigations are completed in a timely manner
  - Annual staff training in investigative techniques
  - Provide staff with a worksheet for all pesticide episode investigations

#### Measures of Success

The best measure of success is the yearly evaluation of our investigation and response reporting for deficiencies. We will discuss with licensed staff and DPR EBL our investigation and response reporting process periodically to find (if any) deficiencies and develop a plan of action to address identified deficiencies or area of concern. Periodic review of all investigations will be imperative to assure that all priority investigations are reported to EBL immediately and a 15-day report is submitted. Additionally, complete all priority investigations within 60 days of when the Nevada County Department of Agriculture was notified of the incident. All non-priority investigations are completed within 120 days. The number of returned or incomplete investigations will also show a direct correlation to the success of this program.

## **C. Enforcement Response**

#### Enforcement Response Evaluation

- ERP guidelines will be followed for all enforcement actions.

#### Strengths

- When properly followed, these practices result in a timely response to non-compliances.
- Use of PUE inspectors when deciding actions help to get all the mitigating factors out on the table prior to taking an action and also results in consistent enforcement.
- Review practice assures public and DPR of proper handling of non-compliances.

#### Weaknesses

- Too early to evaluate (working with the new ERP over time will give us more experience)

#### Goal or Objective

The goal of the enforcement response plan is to provide a swift and fair response to non-compliances that result in future compliance by the respondent. The actions must be



consistent and fair in order to maintain the respect of the regulated industry as well as maintaining the integrity of the office.

#### Deliverables

- Consideration of all appropriate enforcement options (follow ERP)
- Timely response
- Oversee support staff to be sure actions are sent out immediately upon signature of the Commissioner.
- Steps to follow through on pending action
  - Each month the log showing all activity on ongoing investigations is reviewed by Joe Damiano.
  - Log is discussed at monthly staff meeting to assess progress.

#### Measure Success

The best measure of success of the enforcement response program is the resulting compliance record of those entities that have been affected by the program. Monitor the compliance history of those businesses that have received actions from our enforcement response program to see if their compliance has indeed increased. There should also be an improvement in the compliance of other entities that have been indirectly affected by our enforcement response program through industry contact, but that would be difficult if not impossible to measure in many cases.

### **D. Resources**

#### Personnel

- Commissioner @ 10%
- 1 full time clerical position 10%
- 1 agricultural biologist III 25%
- 1 agricultural biologist I/II (in training ) 20%

#### Assets

- Each biologist has a vehicle for his exclusive use
- Three workstations for issuing restricted materials permits and operator ID numbers.
- One workstation used for GIS mapping
- Tablet PC with AIRS software